

**Appl. No. . : 10/825,071**  
**Filed : April 15, 2004**

## **REMARKS**

Claims 3-7, 10-11, and 17 have been amended. No new matter has been added. Please enter these amendments prior to further examination. Claims 12-16, and 18-19 were not addressed in the Office Action.

### **Discussion of Claim Objections**

Claims 3-6 and 10-11 were objected to because of certain informalities. Claims 3-6 and 10-11 have been amended to corrected the informalities.

### **Discussion of Rejection under 35 U.S.C. 102(b)**

Claims 7 and 17 were rejected as under 35 U.S.C. 102(b) as being anticipated by Carter et al. (U.S. 5,674,264).

Carter discloses a cochlear implant with stimulation electrodes where the voltage is measured during stimulation to adjust the stimulation. The stimulation is provided by pairs of electrodes, where both electrodes of the pair may be stimulation electrodes or where one of the pair is a stimulation electrode and the other is a reference electrode. (See abstract and Figure 2).

Carter, however, does not disclose all of the elements of Applicants Claims 7 and 17. For example, Carter does not disclose a system with at least one stimulation electrode, at least one counter electrode, and at least one sensor electrode, where the sensor electrode is distinct from the stimulation and counter electrodes.

Accordingly, Applicant respectfully submits that Applicants Claims 7 and 17, as amended, overcome the rejection based on Carter.

### **Discussion of Rejection under 35 U.S.C. 103(a)**

The Examiner rejected Claim 9 as being unpatentable over Carter in view of Adams (U.S. 6,390,971).

Adams discloses "a programmable implantable hearing aid including built-in electronics being in wireless communications with a hand-held programmer." (See abstract). The hearing aid has programmable amplifiers and filters which can be remotely programmed. (See Figure 3).

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However, the combination of Carter and Adams do not disclose all of the elements of Applicant's Claim 9. For example, neither Carter nor Adams discloses a memory in which a maximum value of a polarization voltage can be stored.

Accordingly, Applicant respectfully submits that Applicants Claim 9 is patentable over Carter in view of Adams.

**Discussion of Allowable Subject Matter**

In addition, Applicant respectfully thanks and acknowledges that allowable subject matter status of Claims 3-6, 10-11, and 20-24.

**Discussion of unaddressed Subject Matter**

Claims 12-16, and 18-19 were not addressed in the Office Action. In an informal communication with the Examiner which occurred on or about January 17, 2007, the Examiner stated that because a supplemental Office Action was not issued, a next Office Action, if necessary, will be non-final.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: January 31, 2007

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